

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH H. YOUNG,

Plaintiff,

v.

QUALITY LOAN SERVICE CORP.  
WASHINGTON, WELLS FARGO BANK,  
N.A., HOMESTONE MORTGAGE, INC.,  
FEDERAL HOME LOAN MORTGAGE  
CORPORATION, a/k/a "FREDDIE MAC",  
MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC., a/k/a "MERS", and DOES  
1-10,

Defendants.

No. 2:14-cv-01713-RSL

ORDER GRANTING COBALT  
MORTGAGE, INC.'S MOTION  
TO DISMISS

This matter came before the Court on Defendant Cobalt Mortgage, Inc.'s unopposed "Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6)." Dkt. # 14. Having reviewed the memoranda and exhibits submitted by defendant, the Court finds as follows:

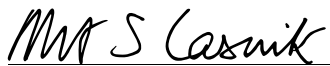
Plaintiff's claim for rescission cannot succeed based on the allegations of the complaint. Because a notice of rescission was not provided until after the three-year statute of repose had expired, plaintiff's underlying Truth in Lending Act claim is barred and his related claims (breach of contract, RICO, and civil conspiracy) therefore fail.<sup>1</sup> Nor has plaintiff alleged facts giving rise to a plausible inference that he is entitled to quiet title. Cobalt's motion to dismiss

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<sup>1</sup> Although defendant has provided evidence from which one could conclude that the remedy of rescission is not applicable to plaintiff's mortgage because it was a "residential mortgage transaction" as defined in 15 U.S.C. §1602(x), that evidence has not been considered in the context of this motion to dismiss. Plaintiff has specifically alleged that the transaction secured by his home "was not entered into for the purpose of initial acquisition or construction of that home." Complaint at ¶48.

1 is therefore GRANTED and all claims asserted against it in this litigation are hereby  
2 DISMISSED with prejudice.

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4 Dated this 15th day of January, 2015.

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6 Honorable Robert S. Lasnik  
7 United States District Court Judge  
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